IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6737 of 2007()

CRIME NO.283/06 OF KUTTIPPURAM POLICE STATION

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PETITIONER : ACCUSED NO.12:

ANWAR, S/O.HAMZA, POTHIYIL HOUSE,
PARASSERY, THENKARA P.O., MANNARKKAD.
PALAKKAD DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6737 OF 2007

Dated this the 7th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 12th accused in a crime registered alleging offences punishable, inter alia, under Secs.120B and 395 of the IPC.

2. The alleged incident occurred on 22/11/06. The employees of a steel company were allegedly carrying huge amounts of cash in a secret chamber in their vehicle to their employer. These amounts were allegedly collected from various sources who owed amounts to the principal. While they were proceeding along the National Highway, accused 1 to 9 are alleged to have proceeded in another vehicle, intercepted the said vehicle, attacked the employees in the car and robbed the money which such employees were carrying in the car. The employees suffered injuries. One of them

succumbed to the injuries also. The crime was registered. Investigation is in progress. The police have now arrayed 13 accused persons on the array of accused. The crux of the allegations is that accused 1 to 9 had actually taken part in the operation on 22/11/06. This operation was schemed, planned and organized by accused 10 to 13. Accused No.10 is involved in several other crimes. He was arrested and interrogated. A detailed confession statement has been made by him. In such confession statement, he has allegedly narrated his involvement in many identical crimes where the carriers of money were attacked and looted of the amounts which they were carrying. It is the case of the prosecution that the 10th accused along with the other conspirators had done the necessary ground work before embarking on the operation. He is alleged to have resided in the house of the petitioner herein/the 12th accused on a number of occasions. It is the case prosecution that they on such occasions schemed and planned various operations in secrecy. There is a specific allegation that days prior to the incident proper, the petitioner and the 10th accused have been making enquiries about the manner in which the cash collected from various sources were carried to the employer of the persons

who were attacked in the vehicle on the date in question. In addition to the 10th accused, accused 11 and 13 have also been arrested and questioned and their statements also revealed the complicity of the petitioner. They pointed out a premise as the place where the conspiracy was hatched and the landlord of the premise has also been spotted to confirm that it was the petitioner who took such premise on lease. Investigation is further proceeding. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Except the vague suspicion and unsubstantiated hunches, there is nothing tangible on which even a reasonable suspicion can be entertained against the petitioner. In these circumstances, it is prayed that the petitioner may be granted anticipatory bail. The learned counsel for the petitioner in particular relies on a report dated 2/8/07 by which the petitioner was brought on the array of accused wherein no vital details are revealed.

4. The learned Public Prosecutor vehemently opposes the application. The learned Public Prosecutor has placed before me the Case Diary for my perusal, after flagging the relevant pages. I have perused the same. I have gone through the

statements of accused 10, 11 and 13. I have also gone through the statement of the landlord of the building where the conspiracy is alleged to have taken place. I shall, at this early stage of the investigation, not embark on a detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that, on an anxious consideration of all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. In a serious crime like this, the Investigator must be granted an opportunity to arrest the accused person like the petitioner herein and subject him to interrogation to get light on the vital details of the alleged crime. At any rate, I am not persuaded to agree that this is a fit case where the petitioner can be permitted to arm himself with an order of anticipatory bail at this early stage. I agree with the learned Public Prosecutor that the petitioner must surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seen regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail,

after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge